

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Fred Morgenstern,

Civil No. 06-1107 (RHK/JSM)

Petitioner,

ORDER

v.

R.L. Morrison, Warden,

Respondent..

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated August 2, 2006. Timely Objections have now been filed.

Based upon the undersigned's de novo review of the Report and Recommendation, and all of the files, records and proceedings herein, **IT IS ORDERED:**

1. The Report and Recommendation (Doc. No. 8) is **ADOPTED**;
2. The Objections (Doc. No. 9) are **OVERRULED**; and
3. Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. No. 1) is **GRANTED IN PART AND DENIED IN PART**. The Petition is granted to the extent Petitioner requests a RRC eligibility determination without regard to 28 C.F.R. §§ 570.02 and .21. The Petition is denied to the extent Petitioner seeks immediate transfer to a RRC or immediate determination of his RRC eligibility date. While Petitioner's release date is still five years away, the BOP has committed to conducting Petitioner's RRC placement 11 to 13 months before his projected release date,

pursuant to Program Statement 7310.04. Petitioner has already obtained all the relief he is entitled to under 18 U.S.C. § 3621(b) and 28 U.S.C. § 2241.

Dated: August 29, 2006

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge